

# **EXHIBIT E**

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2                   DISCLAIMER

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18      REALTIME/ROUGH UNEDITED/UNCERTIFIED TEXT

19

20                   THE VIDEOGRAPHER: Here begins media  
21       number 1 of the deposition of R. Lee Fraley in the  
22       matter of Teledyne versus Honeywell, this case is in  
23       the Central District Court of California. The case  
24       number is 06-06803. Today's date is February 21st,  
25       2008, the time is 9:08 a.m. The deposition is taking

1 place at Snell & Wilmer 400 East Van Buren, Suite  
2 1900, Phoenix, Arizona, 85004 and is being taken on  
3 behalf of the plaintiffs and counter defendants. The  
4 videographer is kill la Camenzind appearing on behalf  
5 of Sarnoff court reporters and legal technology,  
6 located in Irvine, California, would counsel please  
7 identify yourselves and state whom you represent  
8 please.

9 MR. ALDEN: Anthony Alden of Quinn  
10 Emanuel representing Teledyne Technologies,  
11 Incorporated, plaintiff and counter defendant.

12 MR. STARR: \*Ephrain Starr with Kirkland  
13 & Ellis LLP on behalf of of Honeywell.

14 MR. CONDO: Jim Condo and Wendy Neal with  
15 Snell & Wilmer, LLP on behalf of the witness in his  
16 individual capacity and as a member of Snell & Wilmer  
17 LLP.

18 THE VIDEOGRAPHER: Thank you. Madam  
19 court reporter if you would please swear in the  
20 witness.

21

22 R. LEE FRALEY,  
23 Having been first duly sworn, was examined and  
24 testified as follows:

25 THE VIDEOGRAPHER: We are on the record

1 at 909 a.m.

2 E X A M I N A T I O N

3 BY MR. ALDEN:

4 Q. Good morning, sir, as you just heard, my  
5 name is Anthony Alden, I'm an attorney with Quinn  
6 Emanuel Urquhart Oliver & Hedges in Los Angeles. I  
7 represent plaintiff and counter defendant in this  
8 suit, Teledyne Technologies, Incorporated.

9 What is your full name, sir?

10 A. My full name is Robert Lee Fraley.

11 Q. And how do you spell Fraley?

12 A. F-r-a-l-e-y.

13 Q. And what is your current business  
14 address, sir?

15 A. Snell & Wilmer is located at, my office  
16 located at 1 Arizona center, 400 east Van Buren,  
17 Phoenix, Arizona 850 -- 85004.

18 Q. Mr. Fraley, have you ever had your  
19 deposition taken before?

20 A. No, I have not.

21 Q. Have you ever offered testimony in any  
22 case?

23 A. No.

24 Q. Why don't we go over some ground rules  
25 just so the deposition proceeds smoothly. I will be

1 technology where they can, how they do that.

2 BY MR. ALDEN:

3 Q. Do you know whether the signals that the  
4 satellite dish that's on your roof receives are  
5 signals that are broadcast generally over a  
6 geographic area or from they signals that are  
7 broadcast specifically to you or something else?

8 A. That's multiple questions, but I don't  
9 know. The answer is I don't know whether or not the  
10 signals that I receive are broadcast to another  
11 person or if they're broadcast to knee, I don't know  
12 for sure. . I guess it could be both, meaning some  
13 could go to me and go to someone else and other ones  
14 not be available to others, I mean, again, I'm not  
15 sure.

16 Q. Do you have any understanding as to  
17 whether an aeronautical satellite is different to a  
18 direct broadcast satellite?

19 MR. STARR: Objection, calls for opinion  
20 testimony.

21 THE WITNESS: I don't have any specific  
22 understanding if they're -- quite frankly I don't  
23 quite understand what they exactly are, but I don't  
24 have any understanding that, you know, how they  
25 relate or --

1 attempt to try to look at the application. At some  
2 level it says it's a data source comprising a network  
3 system for the storage of related data information.

4 Q. Do you think it's referring, when it  
5 refers to data source do you think it's relating to a  
6 technical term in Element 1 of Claim 1?

7 MR. STARR: Objection; calls for opinion  
8 testimony.

9 THE WITNESS: I'm not sure -- what do you  
10 mean by a technical term?

11 BY MR. ALDEN:

12 Q. Well, do you think that it requires some  
13 technical knowledge to understand what a data source  
14 is that it's referring to in Element 1 of Claim 1?

15 MR. STARR: Objection; calls for opinion  
16 testimony.

17 THE WITNESS: If what you're asking does  
18 it require -- are you asking does it require more  
19 than reading the words?

20 BY MR. ALDEN:

21 Q. Well, I'm asking do you have an  
22 understanding of what a data source is that's  
23 referred to in Element 1 of Claim 1?

24 A. Do I have an understanding? Yeah, maybe  
25 something.

1       unit is a term of art in any particular field?

2           A.    No, I do not.

3           Q.    Do you ever an understanding of what was  
4       meant by the term transmission unit in the context of  
5       Claim 1 during prosecution of the patent?

6           Q.

7           A.    I don't recall.

8           Q.    Do you have an understanding of what the  
9       term satellite data unit means?

10          A.

11            MR. STARR: Objection, calls for opinion  
12       testimony.

13            THE WITNESS: No.

14       BY MR. ALDEN:

15           Q.

16           THE WITNESS: I do not, I don't have even  
17       an understanding, I'm not quite sure what data unit,  
18       some kind of -- a data unit for a satellite is the  
19       only thing that's coming to mind, but I'm not quite  
20       sure what it means.

21           Q.    Do you know if it's a term of art in any  
22       particular field?

23           A.    No, I'm not aware.

24           Q.    So having been involved in the  
25       prosecution and reviewed some of the patent file

1 history prior to your deposition today, you are  
2 unable to tell me what a satellite data unit is; is  
3 that correct?

4 MR. STARR: Objection; argumentative.

5 THE WITNESS: I don't think I could tell  
6 you with any kind of certainty, that's described in  
7 the specification.

8 Q. What about a radiofrequency unit?

9 MR. STARR: Excuse me, Mr. Fraley, are  
10 you done answering the last question?

11 THE WITNESS: What's that?

12 MR. STARR: Are you done answering the  
13 last question?

14 THE WITNESS: I apologize, I interrupted  
15 - I said I don't know if the data, the satellite data  
16 unit is with any certainty except what it says in the  
17 specification, I'd have to go look and see.

18 Q. Do you have any understanding of what a  
19 radiofrequency unit is?

20 A. Likewise, I'm not real -- real  
21 knowledgeable what it could be, I mean, again I could  
22 guess or conjecture and maybe it's -- it's a  
23 transmission unit comprises a radio transmission unit  
24 and a radiofrequency unit, so maybe it's some type of  
25 device that transmits via radiofrequency.

1 Q. Well, do you know if a satellite data  
2 unit transmits via radiofrequency?

3 A. I don't know.

4 Q. Did you have any understanding in, during  
5 prosecution of the '152 patent as to what a  
6 radiofrequency unit was?

7 A. I don't recall.

8 Q. If you look at the next claim it refers  
9 to a first communication medium, do you have see  
10 that?

11 A. The next element.

12 Q. Sorry the next element, do you see that?

13 A. Yes, I see that.

14 Q. Do you know what a first communication  
15 medium is?

16 MR. STARR: Objection, calls for opinion  
17 testimony.

18 THE WITNESS: Not specifically just  
19 hearing those terms, I'm -- the claim seems to help  
20 provide some idea, but I don't have -- those words  
21 don't specifically have a meaning.

22 Q. What's -- what idea do you think that  
23 the claim provides with respect to the meaning of the  
24 term first communication medium?

25 MR. STARR: Objection, calls for opinion

1 testimony.

2 THE WITNESS: Yeah, there's a -- there's  
3 another, maybe I can certain here tell by the index,  
4 but it may be that the communication medium also  
5 comprise's radio ground station, I'm not sure if  
6 that's the same ground station or --

7 Q. Is it your understanding that the word  
8 comprises or comprising in the context of a patent  
9 has a particular meaning?

10 A. Do I understand that comprising has a  
11 different -- has a particular meaning.

12 Q. In the context of patents?

13 A. In the context of patents. I have an  
14 understanding:

15 Q. And what is that understanding, sir.

16 A. Comprising means includes.

17 Q. Okay. So would it be your understanding  
18 based on your reading of Claim 1 that the first  
19 communication medium includes an aeronautical  
20 satellite system and a ground station -- and a radio  
21 ground says station adapted to receive information  
22 request signals from a radiofrequency unit?

23 A. I guess reading the word comprising,  
24 sometimes it's read as the word includes, include  
25 those elements. I guess you're asking me if as I'm

1       looking at it here now I can't tell you that a ground  
2       station and a radio ground station are two different  
3       things, maybe, I'd have to study it more, I don't  
4       know if it's meant to refer to the same or two  
5       different --

6           Q.    But certainly based on your reading of  
7       Claim 1 you would say that the first communication  
8       medium includes an aeronautical satellite system and  
9       a ground station?

10          A.    Yeah. Yeah, yeah I would see that.

11          Q.    If you can go on to look at the next  
12       element, you see there it refers to a second  
13       communication medium?

14          A.    I see a second communication medium in  
15       line four.

16          Q.    Right. Do you have an understanding as  
17       you sit here today of what a second communication  
18       medium means?

19          A.    Again, similar to the first communication  
20       medium, I guess another one.

21          Q.    Another communication medium?

22          A.    Another communication medium.

23          Q.    And do you see that in that same element  
24       it refers to a direct broadcast satellite?

25          A.    I see it says comprising a direct

1 broadcast satellite, line five.

2 Q. So would it be your understanding as we  
3 spoke about just previously that the second  
4 communication medium includes a direct broadcast  
5 satellite?

6 MR. STARR: Objection, calls for opinion  
7 testimony.

8 THE WITNESS: Yes, absent other reasons,  
9 I mean, it looks like a second communication would  
10 direct an include a direct broadcast satellite.

11 Q. And what other reasons would there be for  
12 depart interesting what the claim says?

13 A.

14 MR. STARR: Objection, calls for opinion  
15 testimony.

16 THE WITNESS: I guess you'd have to look  
17 to the body of the application, I'm not sure if  
18 there's other reasons within dependent claims maybe  
19 something in the specification that states some  
20 particular reason, it could be something in the  
21 prosecution, it could be in its interpretation, I  
22 don't know if this patent has ever been litigated  
23 before, but maybe something has happened there.

24 Q. Can the specification or the file history  
25 of a patent alter the plain meaning of the words of

1 the average jury is from, but I'm not an expert on  
2 that either, probably, I'm probably average, I tend  
3 to think somewhere in there seems possible.

4 BY MR. ALDEN:

5 Q. Well, you have a degree in electrical  
6 engineering, you can't identify any particular  
7 satellite systems that afford access to greater band  
8 width than a telephone system, do you think your  
9 average person who doesn't have a bachelor's in  
10 electrical engineering be able to identify them?

11 MR. STARR: Objection, calls for  
12 speculation, calls for opinion testimony.

13 THE WITNESS: You know, again, sort of  
14 speculating I guess maybe unless they're sort of  
15 working in that industry, they're probably going to  
16 have a similar view to what I have, other ones maybe  
17 less.

18 Q. Can you identify for me sitting here  
19 today any satellite services that afford a higher  
20 data transfer rate than the telephone system?

21 MR. STARR: Objection, calls for opinion  
22 testimony.

23 A. I don't know specifically. I suspect  
24 that there are, but I wouldn't have a great basis  
25 to, or any specific basis.

1                   Q.    Do you think an average juror is going to  
2    be able to identify a satellite system that has  
3    relatively high data transfer rates relative to a  
4    telephone system?

5                   MR. STARR:  Objection; foundation, calls  
6    for opinion testimony?

7                   THE WITNESS:  I suspect like myself, I  
8    -- I don't know if they can identify at that  
9    particular provider, I suspect that maybe they  
10   believe satellite's going to be faster much like I  
11   would tend to think it's faster than a phone system.

12                  Q.

13    BY MR. ALDEN:

14                  Q.  Sitting here today, do you have an  
15  understanding of what the term wireless LAN system  
16  means?

17                  MR. STARR:  Objection, calls for opinion  
18  testimony.

19                  A.  I have some understanding.

20                  Q.  What is your understanding of the term  
21  wireless LAN system.

22                  A.  Some understanding that LAN stands for  
23  local area network, and I'm sort of putting two and  
24  two together, I don't know if that necessarily means  
25  the network communicates locally wireless or if it's

1       one that's a network that communicates wire Leslie to  
2       some other, you know, receiver or transmitter.

3           Q.    Could you repeat back that answer,  
4       please?

5           MR. STARR:  Please just do the question  
6       and answer so I can hear it as well.

7                   (Record read.)

8       BY MR. ALDEN:

9           Q.    In that answer you appear to be make ago  
10       distinction, could you elaborate the distinction for  
11       me, I wasn't entirely clear?

12          A.    I don't know what the meaning of the word  
13       wireless, I mean, it could be both, could have again  
14       I don't know specify knee local area network, but  
15       looking at the terms you've got some network that's  
16       local, in a locale, and either the wireless I would  
17       suspect could modify that maybe within that network  
18       it communicates wireless Lee, maybe another thought  
19       is that network could communicate wireless Lee out to  
20       some other transmitter or receiver is somewhere or  
21       maybe it it does both.  Again, that's, I wouldn't  
22       call it an educated guess, but a thought.

23          Q.    As someone who has a bachelor of eye  
24       sense in e- e- do you have any understanding of what  
25       a wireless LAN system would include?

1 MR. STARR: Objection, calls for opinion  
2 testimony.

3 THE WITNESS: No, not with any kind of  
4 reasonable certainty, I mean, other than throwing out  
5 a generic term like a there's got to be some kind of  
6 connection means I assume to billed a network you  
7 connect a couple things together, so whether that's  
8 some type of transmitters or receivers or direct  
9 cable of some type, but no specific knowledge.

10 Q. If I said to you that a wireless LAN  
11 system is a wireless LAN unit in corresponding  
12 transmission medium, what would you understand the  
13 corresponding transmission medium is?

14 A

15 MR. STARR: Objection, lacks foundation,  
16 calls for opinion testimony.

17 THE WITNESS: Repeat that, you say  
18 wireless LAN system.

19 Q. If I said to you that a wireless LAN  
20 system is a wireless LAN unit and corresponding  
21 transmission medium?

## 22 A. And corresponding

23 Q. Transmission medium, what would you  
24 understand the corresponding transmission medium to  
25 be or include?

1                   MR. STARR: Objection, lacks foundation,  
2 calls for opinion testimony.

3                   THE WITNESS: I could guess it could be  
4 something within the LAN unit, you know, it could  
5 contain some type of communication medium or there  
6 could be a communication medium outside of it, that  
7 helps it communicate, but I'm really not certain,  
8 just kind of in that context.

9                   Q. Well, would you know what that medium  
10 would be?

11                   A.

12                   MR. STARR: Objection, lacks foundation,  
13 calls for opinion testimony.

14                   THE WITNESS: Absent a whole lot of  
15 information, no, I would -- nothing is coming to  
16 mind.

17                   Q. Do you recall whether in 1998 to 1999  
18 time frame you understood what the term wireless LAN  
19 system meant?

20                   A. I don't recall.

21                   Q. Presumably if I represent to you that it  
22 was included in claim six you had an understanding at  
23 the time that you drafted the application?

24                   A. You might be able to presume at some  
25 point I had some understanding of what it is whether

1       it's one I would have now or even one that would be  
2       viewed now, I don't know

3           Q.    Do you have an understanding sitting here  
4       today of what the term radiofrequency system means?

5           A.    No, it's -- it's a fairly broad term,  
6       again it would be just conjecture to say some type of  
7       system capable of communicating radiofrequency.

8           Q.    Well, if I told you again that it was  
9       used in claim six of the '152 patent, do you think  
10      you had an understanding in the 1998 do 1999 time  
11      frame?

12           A.    I'm not certain, but I mean, it's  
13      possible, I had some understanding.

14           Q.    But you don't recall what that  
15      understanding was sitting here now?

16           A.    I do not recall the understanding.

17           Q.    If I told you that a radiofrequency unit  
18      meant -- sorry, strike that.

19           If I told you a radiofrequency system  
20      meant a radiofrequency unit and corresponding  
21      transmission medium, do you know what the  
22      corresponding transmission medium would be?

23           A.    Didn't we just ask that, I'm sorry?

24           Q.    We asked a similar question with respect  
25      to LAN. Now I'm moving on to a different term, which

1       is radiofrequency system, and I'm asking you if I  
2       said to you that a radiofrequency system means a  
3       radiofrequency unit and a correspond -- and  
4       corresponding transmission medium, what would you  
5       understand the corresponding transmission medium to  
6       be?

7                    MR. STARR: Objection; lacks foundation,  
8       calls for opinion testimony.

9                    THE WITNESS: I guess, from my  
10      understanding, is it's a component of the  
11      radiofrequency system. Things sort of come to mind  
12      it's either a part of the radiofrequency unit that  
13      helps communicate some kind of medium or it's  
14      something separate. I'm not sure what it's a part of  
15      or something in addition to the radiofrequency unit.

16                  Q. If I asked you, sitting here today, what  
17      the term "voice channel system" means, do you have an  
18      understanding?

19                  A. No, I wouldn't. I couldn't even  
20      conjecture at this point.

21                  Q. Do you know what a voice channel is?

22                  A. Not specifically.

23                  Q. Well, again, if I told you that the term  
24      voice channel system was used in claim six of the  
25      patent, did you have an understanding in the 1998 to

1       1999 time frame of what the term voice channel system  
2       meant?

3           A.    I don't recall any understanding.

4           Q.    But presumably you had one at the time?

5           A.    I would probably resume at some point, I  
6       don't know whether that's the ordinary meaning today  
7       or not, I have no idea.

8           Q.    Is it fair to say you don't know what a  
9       voice channel unit is?

10          A.    I can't say that I know what it is.

11          Q.    Now, earlier we were discussing the fact  
12       that you had reviewed at least portions of an office  
13       action summary that formed part of the file wrapper  
14       is that correct?

15          A.    Correct. I recall reviewing portions of  
16       it.

17          Q.    If we can turn back to that exhibit, it  
18       was exhibit number 45.

19          A.    Okay, I have 45.

20          Q.    Do you recall -- strike that. I believe  
21       that you said that you reviewed on the first page  
22       where it said disposition of claims claims one to 12  
23       is art rejected, is that correct?

24          A.    I reviewed, I recall reviewing the front  
25       page and the thing recalled was reading that line

1                   Q.    Sitting here today, what do you think the  
2   key features of the '152 patent are?

3                   MR. STARR: Objection, asked and  
4   answered, calls for opinion testimony.

5                   THE WITNESS: May I look to the  
6   application.

7                   Q.    I'd prefer you to just answer based on  
8   your recollection?

9                   A.

10                  MR. STARR: Objection, asked and  
11   answered, calls for opinion testimony.

12                  THE WITNESS:

13                  A.    Based on my recollection what is, I  
14   understand you said what the key features what that  
15   means.

16                  Q.    Yes?

17                  A.    By that do you mean, I'm sorry, the  
18   elements of the claims or dash.

19                  Q.    By that I mean what do you believe are  
20   the key patentable features of the '152 patent?

21                  A.

22                  MR. STARR: Objection, calls for opinion  
23   testimony, also objection, to the form of the  
24   question.

25                  A.    I guess I could surmise, this is going

1 back to recall our conversation dealing with the  
2 notice of allowability, there was a combination of  
3 elements, I wasn't certain when I read that whether  
4 that was dealing with all the claims or one claim,  
5 elements being, you know, communication medium, data  
6 source, second communication medium, information  
7 request system, I'm sorry I can't think of the other  
8 element.

9 Q. That's okay.

10 MR. STARR: Can I have the last q-and  
11 a-read back please.

12 (The record was read from page \*\*, line.  
13 \*\*, to page \*\*, line \*\*.)

14 BY MR. ALDEN:

15 Q. I'd like to mark as exhibit 56 a document  
16 Bates numbered Snell 000726, please?

17 Q. Mr. Fraley, do you recall ever having  
18 seen this document before?

19 A. No recollection.

20 Q. Okay. Would you agree that U.S. serial  
21 number 09/224, 214 that's referenced under the  
22 redacted ray line is the serial number for the '152  
23 application?

24 A. That appears correct.

25 Q. Does this document refresh your

1       within 30 days we will return the original signature  
2       page to the court reporter for filing.

3                    MR. STARR: Works for me, for you.

4                    MR. ALDEN: I just have one more  
5       question. Was the same approach adopted with respect  
6       to all the subjects of the document requests, not  
7       only the '152 but other related applications.

8                    MR. CONDO: For both this deposition and  
9       the Brett Carlson deposition, the same approach was  
10      used in responding to both sets of document requests.

11                  MR. ALDEN: Okay.

12                  THE VIDEOGRAPHER: We're done?

13                  This concludes the videotaped deposition  
14      of R. Lee Fraley, we have used seven tapes, we are  
15      off the record at 4:41 p.m.

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